

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

**IN RE: NATIONAL PRESCRIPTION
OPIATE LITIGATION**

APPLIES TO ALL CASES

Case No. 1:17-MD-2804

Hon. Dan A. Polster

PLAINTIFFS' POSITION PAPER ON MODIFIED ARCOS ORDER

On July 15, 2019, the Court directed the parties to meet, confer and submit a proposed modified protective order related to ARCOS data (2013-2014) and all Suspicious Order Reports (“SORs”). (Doc. 1845). The litigants and the DOJ met and conferred on two occasions and no agreement was reached. The Court further directed the parties, to the extent the parties could not reach full agreement, to submit a proposal identifying their areas of agreement and their positions on areas of disagreement. The position of the parties is succinctly stated as follows:

1. Defendants take the position that this Court does not have the jurisdiction to modify the protective order until the mandate is issued from the Sixth Circuit Court of Appeals in *In re Nat'l Prescription Opiate Litig.*, 927 F.3d 919 (6th Cir. 2019) and/or clarity arises regarding the legal standard following *Food Mktg. Inst. v. Argus Leader Media*, __ U.S.__, 139 S. Ct. 2356 (2019);

2. The DOJ expresses the desire to maintain the status quo until all appellate rights are exhausted arising out of *In re Nat'l Prescription Opiate Litig.*; and

3. The PEC takes the position that no protective order should be extended to the ARCOS data (2013-2014) and that a modified *discovery* protective order for SORs may be appropriate.¹ However, neither the defendants nor the DOJ was willing to discuss further.

¹ The PEC adopts and incorporates its prior filings regarding this matter. See Doc. Nos. 1798, 1831, 1841 & 1849.

Dated: July 25, 2019

Respectfully submitted,

s/Paul T. Farrell, Jr.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of July, 2019, I have electronically filed the foregoing with the Clerk of Court using the CM/ECF System. Copies will be served upon counsel of record by, and may be obtained through, the Court's CM/ECF System.

s/Peter H. Weinberger
Peter H. Weinberger
Plaintiffs' Co-Liaison Counsel